IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4524 OF 1994

BHAGWAN NAMDEO SHELAR ..PETITIONER

V/S

RAYAT SHIKSHAN SANSTHA,
SATARA & ANR. ..RESPONDENTS

Mr. N.V. Bandiwadekar with Mr. Dilip Bodake for the Petitioner.
None for Respondent Nos. 1 and 2 though served.

CORAM : A.P. DESHPANDE, J.
DATE : 9TH JANUARY, 2007.

ORAL JUDGMENT

1. Heard. The present Petitioner was working as Assistant Teacher in the school administered by the Respondent Society. The Petitioner has allegedly raped a girl partaking education in the school and hence an offence was registered against the Petitioner under section 376 of IPC. The Petitioner was prosecuted and was also convicted

by the Sessions Judge and the Appeal preferred by the Petitioner against the said conviction has been allowed and the Petitioner came to be acquitted. These are all subsequent events. Immediately on happening of the incident the Respondent Management proceeded against the Petitioner and framed charges of serious misconduct touching the offence for which the petitioner was charged. The Rule in that regard, then prevailing, is reproduced hereinbelow :-

Rule 28. Removal or Termination of Service:-

Sub Rule (1): The services of a temporary employee other than on probation may be terminated by the Management at any time without assigning any reason after giving one calendar month's notice or by paying one month's salary (pay and allowances, if any) in lieu of notice.

. In the case of an employee entitled to vacation, the notice shall not be given during the vacation or so as to cover any part of the vacation or within one month after vacation.

Sub Rule (2): Subject to the provision of sub-rule (3), the services of a permanent employee may be terminated by the Management on giving compensation equal to six months' emoluments (pay and allowances) in case he has put in less than 10 years' service, and 12 months' emoluments (pay and allowances) if he has put in service of 10 years or more, in the following circumstances, namely:-

. Immodest or immoral behaviour with a female or male student or employee or such other action involving moral turpitude into which, if an open

enquiry is held undesirable social consequences may follow.

Sub Rule (3): No order of termination of service shall be issued to an employee under sub rule (2) unless a notice stating the grounds on which his services are proposed to be terminated is given to him by the Management allowing him to show cause, if any, within a reasonable time and the cause shown, if any, is considered. If, after considering the cause shown, if any, an order of termination of services of an employee is passed, the Management may not assign any reason in the order to be issued to the employee.

2. In the instant case it is undisputed that the Management has complied with the provisions contained in Sub Rule (2) and (3) of Rule 28. A show cause notice was given and the reply thereto was considered and after complying with the Sub Rule 2 and after paying the requisite amount the petitioner has been terminated.

3. Learned counsel for the petitioner submitted that as the petitioner has been acquitted he need to be granted reinstatement. Neither conviction nor acquittal has any bearing while dealing under Rule 28 Sub Rule (2) and (3) of Maharashtra Employees of Private School (Condition of Services), 1981. The School Tribunal has rightly held that as the provisions of Sub Rule 2 and 3 have been complied with, the order of termination cannot be faulted. The view taken by the Tribunal

is perfectly legal and proper as the situation is covered by the then prevailing Rule 28(2) and (3). It was open

for the Management to have the service of the petitioner terminated, after complying with the provisions of Sub Rule 2 amd 3, in regard to compliance of which there is no dispute. In the result there is no merit in this petition. The same is dismissed. Rule is discharged.

(A.P. DESHPANDE, J.)